

Agenda

Item #8



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

To: Commission Members
From: Jonathan Wayne, Executive Director
Date: November 22, 2010
Re: Request by Sen. Lawrence Bliss for Waiver of Late-Filing Penalty

Sen. Lawrence Bliss was required to file the 11-day pre-election report on Friday, October 22. After it was not filed, I called Sen. Bliss on the morning of Saturday, October 23 to ask him to file the report. His campaign filed the report that afternoon, one day late.

The preliminary penalty is \$228.88. Sen. Bliss requests a waiver. He explains that on the evening of the October 22 deadline, he was using the Commission's e-filing system to enter data in his campaign finance report and "discovered that there was an error [in data entered by the Commission staff on Schedule A] in the amount of money the Commission had authorized me to spend."¹ He states that he did not feel he should file the report that he knew to be incorrect.

Sen. Bliss eventually came to the (correct) conclusion that, on October 15, the Commission staff had neglected to enter in Schedule A one matching funds authorization in the amount of \$3,190. On October 15, he received the correct authorization to spend matching funds, but that evening the staff neglected to enter the authorization in the Commission's e-filing system for purposes of disclosure to the public.

Sen. Bliss brought up the possible staff error in an e-mail at 4:43 p.m. on Saturday, October 23 ("Now that I've filed my report, and had an opportunity to review it") I replied five minutes later, candidly, that it was possible that we made a mistake in our data entry. Candidate registrar Sandy Thompson was working Sunday, October 24. She confirmed we had neglected to enter the \$3,190 matching funds authorization in our e-filing system and entered it. (At your November 30 meeting, I can fill you in on the reasons for the October 15 data entry error. It was a limited problem that affected two or three candidates.)

As a factual matter, it is difficult for the staff to evaluate to what degree our October 15 data entry error contributed to the late filing on October 22. When I telephoned Sen. Bliss on the morning of September 23, he expressed surprise that the report was not filed. He did not mention any problem with incomplete recording of his matching funds in Schedule A of his report. He said he would file the report shortly. My impression that morning – which could be inaccurate – was that the campaign had not started the campaign finance report.

¹ For purposes of public disclosure, the Commission staff enters matching funds authorizations on Schedule A of candidates' campaign finance reports in the e-filing system.

The staff recommends reducing the penalty by one-half to \$114.44 because the amount of the preliminary penalty (\$228.88) is quite high for a one-day late filing by a candidate. We believe it is disproportionate to the harm suffered by the public from the late disclosure.

Thank you for your consideration of this memorandum.



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

October 26, 2010

BY CERTIFIED MAIL AND REGULAR MAIL

Hon. Lawrence Bliss
504 Cottage Road
South Portland, ME 04106

Re: Late 11-Day Pre-General Campaign Finance Report Due 10/22/2010

Dear Senator Bliss:

Preliminary penalty amount. You filed a 11-Day Pre-General campaign finance report on 10/23/2010. Under the Election Law, the Commission must calculate a preliminary penalty for the late filing, based on the amount of financial activity during the report period, the number of days the report was filed late, and the candidate's filing record. The preliminary penalty for the late filing of your report is \$228.88. (Please refer to the enclosed penalty matrix for the calculation.) If you agree to pay the penalty, please use the enclosed billing statement within 14 days of receiving this letter. Please do not use Maine Clean Election Act funds to pay the penalty.

Requesting a waiver. You may ask the members of the Ethics Commission to waive the preliminary penalty due to mitigating circumstances (defined below). To request a waiver, please send a letter within 14 days of receiving this notice that contains a full explanation of the reasons you filed late. If you request a waiver, the Commission staff will notify you of the date and time of the public meeting at which the Commissioners will consider your request. You or a person you designate may appear at the meeting. The Commission staff will notify you of the Commissioners' decision shortly afterward.

Mitigating circumstances. The Election Law defines mitigating circumstances as: (1) a valid emergency, (2) an error by the Commission staff, (3) failure to receive notice of the filing deadline, or (4) relevant evidence presented that a *bona fide* effort was made to file the report in accordance with the statutory requirements. Also, the Commission may waive a preliminary penalty if the Commission determines that the penalty is disproportionate to the size of the candidate's campaign, the level of experience of the candidate, treasurer, or campaign staff, or the harm suffered by the public from the late disclosure.

Please call me at 287-4179 if you have any questions.

Sincerely,

Sandy Thompson
Candidate Registrar

cc: Neil Jamieson (by regular mail)

OFFICE LOCATED AT: 45 MEMORIAL CIRCLE, AUGUSTA, MAINE
WEBSITE: WWW.MAINE.GOV/ETHICS

PHONE: (207) 287-4179

FAX: (207) 287-6775

October 26, 2010

Hon. Lawrence Bliss
504 Cottage Road
South Portland, ME 04106

The Commission staff has calculated a preliminary penalty amount for the late filing of your 11-Day Pre-General campaign finance report. Please pay the penalty or request a waiver within 14 days of receiving this notice. If the Commission does not receive a payment or waiver request, the Commission will send you a final notice requesting payment within 30 days.

To pay the penalty, submit a check or money order to the address below, along with the bottom half of this letter. Or, please pay online using a credit or debit card at the web address listed below. If you would like to request a waiver of the preliminary penalty, please see the instructions included in the attached letter.

Failure to pay the full amount of an assessed penalty is a civil violation. The Commission is required to report to the Attorney General the name of any person who fails to pay a late-filing penalty. If you have questions, please call Sandy Thompson at 287-4179.

Cut Along Dotted Line

For Office Use Only:
Account: MCGEEP
Fund: 014 Approp: 02

To Commission on Governmental Ethics and Election Practices
135 State House Station
Augusta, Maine 04333

From: Hon. Lawrence Bliss

RE: Penalty for late filing of 11-Day Pre-General Campaign Finance Report

Penalty ID: 1732

Amount Enclosed: \$ _____

Check/M.O. No.: # _____

Please Make Check or Money Order Payable to Treasurer, State of Maine
Or Pay Online at <http://www.maine.gov/online/ethics/penalties>

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

PENALTY MATRIX FOR LATE CANDIDATE REPORT FILINGS

BASIS FOR PENALTIES 21-A M.R.S.A. Section 1020-A(4-A)

The penalty for late filing of a required report is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days the report is filed late, as follows:

- For the first violation, 1%
- For the second violation, 3%
- For the third and each subsequent violation, 5%

Example: The treasurer files the candidate's report two (2) days late. The candidate has not had any previous late violations this biennium. The candidate reports a total of \$2,500 in contributions and \$1,500 in expenditures for the filing period. The penalty is calculated as follows:

\$2,500	Greater amount of the total contributions received or expenditures made during the filing period
<u>X .01</u>	Percent prescribed for first violation
\$25.00	One percent of total contributions
<u>X 2</u>	Number of calendar days late
\$50.00	Total penalty

Lawrence Bliss

Your penalty is calculated as follows:

Receipts/Expenditures:	\$ <u>22,887.81</u>
Percent prescribed:	<u>1%</u>
	\$ <u>228.88</u>
Number of days late:	X <u>1</u>
Total penalty accrued:	\$ <u>228.88</u>

A penalty begins to accrue on the day following the due date of the report.

Any penalty of less than \$10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A required report that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

MAXIMUM PENALTIES 21-A M.R.S.A. Section 1020-A(5-A)

\$5,000 for reports required to be filed 42 days before an election,
11 days before an election, 42 days after an election, and for 24-hour reports;
\$1,000 for semiannual reports.

504 Cottage Road
South Portland, Maine 04106
November 11, 2010

Mr. Jonathan Wayne
Commission on Governmental Ethics
135 State House Station
Augusta, Maine 04333-0135

Dear Mr. Wayne:

I am writing because I received a letter dated October 26, 2010 from the Commission, indicating that I was being penalized for filing my 11-Day Pre-General campaign finance report one day late. I understand that one option is to request a waiver of the penalty due to mitigating circumstances. Please accept this letter as my request for that waiver.

I suspect that many of the candidates began putting together their reports at the last possible moment. I am certainly one of those last-minute filers. But on Friday evening as I was entering my data through the on-line process, I discovered that there was an error in the amount of money that the Commission had authorized me to spend. The error, which amounted to over \$3,000, significantly changed the report from what I *thought* it should have been. I tried a variety of ways to "fix" the report, but as you know the list of deposits to the account from the Commission is not adjustable by the candidate.

I made the assumption, based on the fact that it was after business hours on a Friday evening, that there would be no member of the Commission staff available to answer my questions. At the time, I did not feel that I should submit a report that I knew to be incorrect.

On the following day, I received a telephone call reminding me that my report was late. I assured the caller that I would submit my report within the hour; I did.

After submitting the erroneous report, I sent an email to you, as Director of the Commission, outlining the error *on the part of the Commission* that I believed made my report incorrect. I assumed that I would receive some type of response when the workweek began on Monday. Surprisingly, I received a response almost immediately. The error *by the Commission* was ultimately noted, and the report was corrected.

According to the letter I received from the Commission, the Election Law defines mitigating circumstances as: (1) a valid emergency, (2) *an error by the Commission staff*, (3) failure to receive notice of the filing deadline, or (4) relevant evidence presented that a bona fide effort was made to file the report in accordance with the

statutory requirements. I believe that the error by the Commission that I discovered which would have made my report incorrect warrants waiver of the penalty as being a true mitigating circumstance.

I am enclosing with this letter a copy of a long chain of e-mail notes, including my email to you dated Saturday, October 23 at 4:43 p.m. noting the error by the commission, your immediate response to me at 4:48 p.m. indicating that you would ask Sandy Thompson to check on Sunday, your email to Ms. Thompson asking her to check, my email to you both on Monday, October 25 at 7:21 p.m. asking what you discovered, and your response to me at 7:42 p.m. on that same day validating my observation that there was an error on the part of the Commission. (The email chain also includes notes between my campaign manager, my campaign treasurer, and me discussing the possible expenditure of funds; it's not particularly relevant to this letter, and I trust that you and the Commission will discount the inclusion.)

I look forward to hearing from the Commission regarding a date and time when the Commissioners will consider my request for waiver of the penalty based upon this extenuating circumstance.

Sincerely,

Lawrence Bliss
Senator, District 7
Maine State Senate

Cc: Neil Jamieson, Treasurer

Matching Funds reporting error ...

9 messages

Sat, Oct 23, 2010 at 4:43 PM

Lawrence Bliss <lawrence.bliss@gmail.com>

To: "Wayne, Jonathan" <jonathan.wayne@maine.gov>

Cc: Neil Jamieson <jamieson@maine.n.com>

Bcc: "Jamieson, John" <John_Jamieson@wrightexpress.com>, Alex Pringle <aprigle@gmail.com>

Jonathan --

Now that I've filed my report, and had an opportunity to review it, I believe that there is an error in Schedule A (Payments and Authorizations) which understates MCEA Matching Funds by \$3,190.47.

The report shows one matching fund deposit on October 15th, in the amount of \$3,136.33. Actually, I received two authorizations on October 15th, one for \$3,136.33 and another for \$3,190.47.

It's not possible for me to submit an amended report to reflect this, since I don't believe that I can input MCEA Matching Funds amounts on Schedule A.

Obviously, this is not urgent for me. I know I have the extra money. But it does require updating at some point. I'll do whatever you folks think should be done to make the correction.

Larry Bliss

Senator Lawrence Bliss
Senate District 7 (Cumberland County)
Maine State Legislature

Sat, Oct 23, 2010 at 4:48 PM

Wayne, Jonathan <jonathan.wayne@maine.gov>

To: Lawrence Bliss <lawrence.bliss@gmail.com>

Cc: Neil Jamieson <jamieson@maine.n.com>

Sen. Bliss,

Thank you for bringing it to our attention. It's entirely possible that we may have neglected to enter the matching funds authorization on October 15. Sandy Thompson is in the office Sunday, and I'll ask her to look at it.

Jonathan Wayne

From: Lawrence Bliss [mailto:lawrence.bliss@gmail.com]

Sent: Saturday, October 23, 2010 4:44 PM

To: Wayne, Jonathan

Cc: Neil Jamieson

Subject: Matching Funds reporting error ...

[Quoted text hidden]

Sat, Oct 23, 2010 at 4:48 PM

Wayne, Jonathan <jonathan.wayne@maine.gov>

To: "Thompson, Sandy" <Sandy.Thompson@maine.gov>

Cc: Lawrence Bliss <lawrence.bliss@gmail.com>

Sandy,

Sen. Bliss believes that we might have neglected to enter onto Schedule A one of his

Sen. Bliss believes that we might have neglected to enter onto Schedule A one of his matching funds authorizations dated October 15. Could you please look into it when you're in the office Sunday and get back to him? Thank you.

Jonathan

From: Lawrence Bliss [mailto:lawrence.bliss@gmail.com]
Sent: Saturday, October 23, 2010 4:44 PM
To: Wayne, Jonathan
Cc: Neil Jamieson
Subject: Matching Funds reporting error ...

Jonathan ->

Now that I've filed my report, and had an opportunity to review it, I believe that there is an error in Schedule A (Payments and Authorizations) which understates MCEA Matching Funds by \$3,190.47.

The report shows one matching fund deposit on October 15th, in the amount of \$3,136.33. Actually, I received two authorizations on October 15th, one for \$3,136.33 and another for \$3,190.47.

It's not possible for me to submit an amended report to reflect this, since I don't believe that I can input MCEA Matching Funds amounts on Schedule A.

Obviously, this is not urgent for me. I know I have the extra money. But it does require updating at some point. I'll do whatever you folks think should be done to make the correction.

Larry Bliss

Senator Lawrence Bliss
Senate District 7 (Cumberland County)
Maine State Legislature

Heather & Neil Jamieson

To: Lawrence Bliss

Sun, Oct 24, 2010 at 8:50 AM

From: Lawrence Bliss
Sent: Saturday, October 23, 2010 4:43 PM
To: Wayne, Jonathan
Cc: Neil Jamieson
Subject: Matching Funds reporting error ...

[Quoted text hidden]

Lawrence Bliss <lawrence.bliss@gmail.com>
To: Heather & Neil Jamieson
Cc: John Jamieson

Sun, Oct 24, 2010 at 8:58 AM

[REDACTED]

Larry

Sent from my iPhone.
[Quoted text hidden]

Jamieson, John [REDACTED]
To: Lawrence Bliss <lawrence.bliss@gmail.com>, Heather & Neil Jamieson [REDACTED]

Sun, Oct 24, 2010 at 9:24 AM

[REDACTED]

From: Lawrence Bliss [mailto:lawrence.bliss@gmail.com]
Sent: Sunday, October 24, 2010 8:59 AM
To: Heather & Neil Jamieson
Cc: Jamieson, John
Subject: Re: Matching Funds reporting error ...
[Quoted text hidden]

Lawrence Bliss <lawrence.bliss@gmail.com>
To: "Wayne, Jonathan" <Jonathan.Wayne@maine.gov>
Cc: "Thompson, Sandy" <Sandy.Thompson@maine.gov>

Mon, Oct 25, 2010 at 7:21 PM

I'm just checking in to see about that mystery \$3,000+ that seems to have been authorized but not recorded. I don't want to spend money that I may not actually have.

Any news? Thanks.

Larry Bliss

Sent from my iPhone.
[Quoted text hidden]

Wayne, Jonathan <Jonathan.Wayne@maine.gov>
To: Lawrence Bliss <lawrence.bliss@gmail.com>
Cc: "Thompson, Sandy" <Sandy.Thompson@maine.gov>

Mon, Oct 25, 2010 at 7:42 PM

Sen. Bliss,

You were absolutely correct. We accidentally did not enter on Schedule A the 10/15/2010 matching funds authorization of \$3,190.47. I just reviewed the Schedule A for your October 22 report, and I can confirm that Sandy entered the missing authorization on Sunday.

Sandy's left for the day. I believe she e-mailed me, but I deleted it this morning. I'm sorry if I was the weak link in the communication chain.

To avoid any misunderstandings, I have attached a pdf of matching funds authorizations. If you have any more questions, please let Sandy know.

Jonathan Wayne

From: Lawrence Bliss [mailto:lawrence.bliss@gmail.com]
Sent: Monday, October 25, 2010 7:21 PM
To: Wayne, Jonathan
Cc: Thompson, Sandy
Subject: Re: Matching Funds reporting error ...

I'm just checking in to see about that mystery \$3,000+ that seems to have been authorized but not recorded. I don't want to spend money that I may not actually have.

[Quoted text hidden]



Sen. Bliss Matching Funds Report 10.25.2010current.pdf
9K

Lawrence Bliss <lawrence.bliss@gmail.com>
To: "Wayne, Jonathan" <Jonathan.Wayne@maine.gov>

Mon, Oct 25, 2010 at 8:06 PM

Thank you.

Larry Bliss

Senator Lawrence Bliss
Senate District 7 (Cumberland County)
Maine State Legislature

[Quoted text hidden]



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135
November 12, 2010

Hon. Lawrence S. Bliss
504 Cottage Road
South Portland, ME 04106

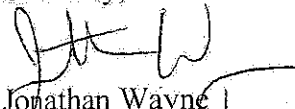
Dear Senator Bliss:

Thank you for requesting a waiver of a late-filing penalty. Your request will be considered by the members of the Ethics Commission at their next meeting on Tuesday, November 30, 2010 at 11:00 a.m. The meeting will be held at our office at 45 Memorial Circle, 2nd floor, Augusta, Maine. You are welcome to attend the meeting in support of your request, but that is not required.

Next week, I will discuss your request with my colleagues and will write up a short memo for the Commissioners that will include a recommendation on behalf of the Commission staff. All of the materials relating to your request will be mailed to the Commissioners on November 22. That day, the agenda and materials will be posted on the Commission's website, www.maine.gov/ethics.

If you have any questions, please call me at 287-4179.

Sincerely,



Jonathan Wayne
Executive Director

cp

21-A MRSA § 1020-A. FAILURE TO FILE ON TIME

1. Registration. A candidate that fails to register the name of a candidate, treasurer or political committee with the commission within the time allowed by section 1013-A, subsection 1 may be assessed a forfeiture of \$10. The commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1.

[1995, c. 483, §15 (NEW) .]

 **2. Campaign finance reports.** A campaign finance report is not timely filed unless a properly signed or electronically submitted copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission by 11:59 p.m. on the date it is due. Except as provided in subsection 7, the commission shall determine whether a report satisfies the requirements for timely filing. The commission may waive a penalty in whole or in part if the commission determines that the penalty is disproportionate to the size of the candidate's campaign, the level of experience of the candidate, treasurer or campaign staff or the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

A. A valid emergency determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; [1999, c. 729, §5 (AMD) .]

B. An error by the commission staff; [1999, c. 729, §5 (AMD) .]

C. Failure to receive notice of the filing deadline; or [1999, c. 729, §5 (AMD) .]

D. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service or interruptions in Internet service. [2009, c. 190, Pt. A, §13 (AMD) .]

[2009, c. 190, Pt. A, §13 (AMD) .]

3. (TEXT EFFECTIVE UNTIL 8/1/11) Municipal campaign finance reports. Municipal campaign finance reports must be filed, subject to all the provisions of this subchapter, with the municipal clerk on forms prescribed by the Commission on Governmental Ethics and Election Practices. The municipal clerk shall send any notice of lateness required by subsection 6 and shall notify the commission of any late reports subject to a penalty.

[1995, c. 625, Pt. B, §5 (AMD) .]

3. (TEXT EFFECTIVE 8/1/11) Municipal campaign finance reports. Municipal campaign finance reports must be filed, subject to all the provisions of this subchapter, with the municipal clerk in a town or city that has chosen to be governed by this subchapter on forms prescribed by the Commission on Governmental Ethics and Election Practices. The municipal clerk shall send any notice of lateness required by subsection 6 and shall notify the commission of any late reports subject to a penalty.

[2009, c. 366, §12 (AFF); 2009, c. 366, §6 (AMD) .]

4. Basis for penalties.

[2001, c. 470, §7 (AMD); T. 21-A, §1020-A, sub-§§4, 5 (RP) .]

4-A. Basis for penalties. The penalty for late filing of a report required under this subchapter, except for accelerated campaign finance reports required pursuant to section 1017, subsection 3-B, is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

A. For the first violation, 1%; [2001, c. 714, Pt. PP, §1 (NEW); 2001, c. 714, Pt. PP, §2 (AFF) .]

B. For the 2nd violation, 3%; and [2001, c. 714, Pt. PP, §1 (NEW); 2001, c. 714, Pt. PP, §2 (AFF) .]

C. For the 3rd and subsequent violations, 5%. [2001, c. 714, Pt. PP, §1 (NEW); 2001, c. 714, Pt. PP, §2 (AFF) .]

Any penalty of less than \$10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A report required to be filed under this subchapter that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

A registration or report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as the facsimile copy is filed by the applicable deadline and an original of the same report is received by the commission within 5 calendar days thereafter.

The penalty for late filing of an accelerated campaign finance report as required in section 1017, subsection 3-B may be up to but no more than 3 times the amount by which the contributions received or expenditures obligated or made by the candidate exceed the applicable Maine Clean Election Fund disbursement amount, per day of violation. The commission shall make a finding of fact establishing when the report was due prior to imposing a penalty under this subsection. A penalty for failure to file an accelerated campaign finance report must be made payable to the Maine Clean Election Fund. In assessing a penalty for failure to file an accelerated campaign finance report, the commission shall consider the existence of mitigating circumstances. For the purposes of this subsection, "mitigating circumstances" has the same meaning as in subsection 2.

[2007, c. 443, Pt. A, §22 (AMD) .]

5. Maximum penalties.

[2001, c. 470, §8 (AMD); T. 21-A, §1020-A, sub-§5 (RP) .]

5-A. Maximum penalties. Penalties assessed under this subchapter may not exceed:

A. Five thousand dollars for reports required under section 1017, subsection 2, paragraph B, C, D, E or H; section 1017, subsection 3-A, paragraph B, C, D, D-1 or F; section 1017, subsection 4; and section 1019-B, subsection 3; [2009, c. 190, Pt. A, §14 (AMD) .]

B. Five thousand dollars for state party committee reports required under section 1017-A, subsection 4-A, paragraphs A, B, C and E; [2003, c. 628, Pt. A, §4 (AMD) .]

C. One thousand dollars for reports required under section 1017, subsection 2, paragraphs A and F and section 1017, subsection 3-A, paragraphs A and E; [2003, c. 628, Pt. A, §4 (AMD) .]

D. Five hundred dollars for municipal, district and county committees for reports required under section 1017-A, subsection 4-B; or [2003, c. 628, Pt. A, §4 (AMD).]

E. Three times the unreported amount for reports required under section 1017, subsection 3-B, if the unreported amount is less than \$5,000 and the commission finds that the candidate in violation has established, by a preponderance of the evidence, that a bona fide effort was made to file an accurate and timely report. [2001, c. 714, Pt. PP, §1 (NEW); 2001, c. 714, Pt. PP, §2 (AFF).]

[2009, c. 190, Pt. A, §14 (AMD) .]

6. Request for a commission determination. If the commission staff finds that a candidate or political committee has failed to file a report required under this subchapter, the commission staff shall mail a notice by certified mail to the candidate or political committee within 3 business days following the filing deadline informing the candidate or political committee that a report was not received. If a candidate or a political committee files a report required under this subchapter late, a notice of preliminary penalty must be sent to the candidate or political committee whose registration or campaign finance report was not received by 11:59 p.m. on the deadline date, informing the candidate or political committee of the staff finding of violation and preliminary penalty calculated under subsection 4-A and providing the candidate or political committee with an opportunity to request a determination by the commission. The notice must be sent by certified mail. Any request for a determination must be made within 14 calendar days of receipt of the commission's notice. The 14-day period during which a determination may be requested begins on the day a recipient signs for the certified mail notice of the proposed penalty. If the certified letter is refused or left unclaimed at the post office, the 14-day period begins on the day the post office indicates it has given first notice of a certified letter. A candidate or political committee requesting a determination may either appear in person or designate a representative to appear on the candidate's or political committee's behalf or submit a sworn statement explaining the mitigating circumstances for consideration by the commission. A final determination by the commission may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C.

[2009, c. 302, §5 (RPR) .]

7. Final notice of penalty. If a determination has been requested by the candidate or political committee and made by the commission, notice of the commission's final determination and the penalty, if any, imposed pursuant to this subchapter must be sent to the candidate and the political committee.

If a determination is not requested, the preliminary penalty calculated by the commission staff is final. The commission staff shall mail final notice of the penalty to the candidate and treasurer. A detailed summary of all notices must be provided to the commission.

[2009, c. 302, §6 (AMD) .]

8. Failure to file report. The commission shall notify a candidate who has failed to file a report required by this subchapter, in writing, informing the candidate of the requirement to file a report. The notice must be sent by certified mail. If a candidate fails to file a report after 2 notices have been sent by the commission, the commission shall send a final notice by certified mail informing the candidate of the requirement to file and that the matter may be referred to the Attorney General for criminal prosecution. A candidate who fails to file a report as required by this subchapter after the commission has sent the notices required by this subsection is guilty of a Class E crime.

[2007, c. 443, Pt. A, §25 (AMD) .]

8-A. Penalties for failure to file report. The penalty for failure to file a report required under this subchapter may not exceed the maximum penalties as provided in subsection 5-A.

[2003, c. 628, Pt. A, §6 (NEW) .]

9. List of late-filing candidates. The commission shall prepare a list of the names of candidates who are late in filing a report required under section 1017, subsection 2, paragraph C or D or section 1017, subsection 3-A, paragraph B or C within 30 days of the date of the election and shall make that list available for public inspection.

[1995, c. 483, §15 (NEW) .]

10. Enforcement. A penalty assessed pursuant to this section that has not been paid in full within 30 days after issuance of a notice of the final determination may be enforced in accordance with section 1004-B.

[2009, c. 302, §7 (RPR) .]

SECTION HISTORY

RR 1995, c. 1, §10 (COR). IB 1995, c. 1, §15 (AMD). RR 1995, c. 2, §38 (COR). 1995, c. 483, §15 (NEW). 1995, c. 625, §B5 (AMD). 1999, c. 426, §§32,33 (AMD). 1999, c. 729, §5 (AMD). 2001, c. 470, §§7,8 (AMD). 2001, c. 470, §11 (AFF). 2001, c. 714, §PP1 (AMD). 2001, c. 714, §PP2 (AFF). RR 2003, c. 1, §14 (COR). 2003, c. 302, §4 (AMD). 2003, c. 448, §4 (AMD). 2003, c. 628, §§A3-6 (AMD). 2007, c. 443, Pt. A, §§21-25 (AMD). 2009, c. 190, Pt. A, §§13, 14 (AMD). 2009, c. 302, §§5-7 (AMD). 2009, c. 366, §12 (AFF). 2009, c. 366, §6 (AMD). MRSA T. 21-A, §1020-A, sub-§4 (AMD). MRSA T. 21-A, §1020-A, sub-§5 (AMD).